PROCEEDINGS OF THE COMMON COUNCIL
IN REGULAR SESSION
TUESDAY , OCTOBER 23 , 1990

CITY OF FORT WAYNE, INDIANA
JOURNAL OF THE PROCEEDINGS
OF THE COMMON COUNCIL

THE COMMON COUNCIL OF THE CITY OF FORT WAYNE MET IN THE COUNCIL CHAMBERS Tuesday EVENING October 23 ,19 90 , IN Regular SESSION. PRESIDENT Charles B. Redd IN THE CHAIR, COUNCIL ATTORNEY Stanley A. Levine , AND Sandra E. Kennedy CITY CLERK, AT THE DESK, PRESENT THE FOLLOWING MEMBERS VIZ:

BRADBURY ✓ , BURNS ✓ , EDMONDS ✓ ,
GiaQUINTA ✓ , HENRY ✓ , LONG A ,
REDD ✓ , SCHMIDT A , TALARICO ✓ ,

ABSENT: 2

COUNCILMEMBER: Long , Schmidt ,
, ,

THE MINUTES OF THE LAST REGULAR October 9 ,1990,
,19 ,
SPECIAL ,19 ,

SESSION HAVING BEEN DELIVERED TO THE COUNCIL, WERE, ON MOTION, APPROVED AND PUBLISHED.

THE CITY OF FORT WAYNE

3 October 1990

COMMUNICATIONS FROM THE CITY PLAN COMMISSION

The Common Council of the
City of Fort Wayne
City-County Building
One Main Street
Fort Wayne, IN 46802

Gentlemen and Mrs. Bradbury:

Attached hereto is the recommendation of the City Plan Commission on one (1) ordinance concerning the vacation of a utility easement.

The proposed ordinance is designated as:

BILL NO. G-90-09-10

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this
3rd day of October 1990.

Robert Hutner
Secretary

FACT SHEET

G-90-09-10
BILL NUMBER

Division of Community Development & Planning

BRIEF TITLE
Utility Easement Vacation

APPROVAL DEADLINE

REASON

DETAILS

Specific Location and/or Address

The rear 5 feet of Lots 84 - 87 and 134 - 137 in Delta Heights Addition.

Reason for Project

Future residential construction on residential lots adjacent to easement.

Discussion (Including relationship to other Council actions)

17 September 1990 - Public Hearing

William Swift, attorney for the petitioner appeared before the Commission. Mr. Swift stated that the petitioner owns all adjacent property to the easement. He stated that due to the appropriation of additional right-of-way for Coliseum Blvd., large portions of Lots 134 thry 137 were acquired. The acquisition left the easement located in a manner that any construction on those lots would be difficult if not impossible. He stated that they are asking to vacate the easement in order to accommodate construction on these lots.

There was no one else present who wished to speak in favor of or in opposition to the proposed vacation.

24 September 1990 - Business Meeting

Motion was made and seconded to return the ordinance to the Common Council with a DO PASS recommendation contingent upon the petitioners providing utility easements or relocations as needed.

POSITIONS	RECOMMENDATIONS
Sponsor	City Plan Commission
Area Affected	City Wide Other Areas
Applicants/ Proponents	Applicant(s) Thomas Jehl City Department Other
Opponents	Groups or Individuals Basis of Opposition
Staff Recommendation	[X] For [ ] Against Reason Against
Board or Commission Recommendation	By [X] For [ ] Against [ ] No Action Taken [ ] For with revisions to conditions (See Details column for conditions
CITY COUNCIL ACTIONS (For Council use only)	[ ] Pass [ ] Other [ ] Pass (as amended) [ ] Hold [ ] Council Sub. [ ] Do not pass

DETAILS

Of the seven (7) members present, six (6) voted for the motion, one (1) did not vote.

Motion carried.

POLICY/PROGRAM IMPACT

Policy or Program Change	☐ No ☐ Yes
Operational Impact Assessment	

(This space for further discussion)

Project Start Date 3 October 1990

Projected Completion or Occupancy Date 3 October 1990

Fact Sheet Prepared by Date 3 October 1990

Patricia Biancaniello

Reviewed by Date 10-12-90

L. Maglio

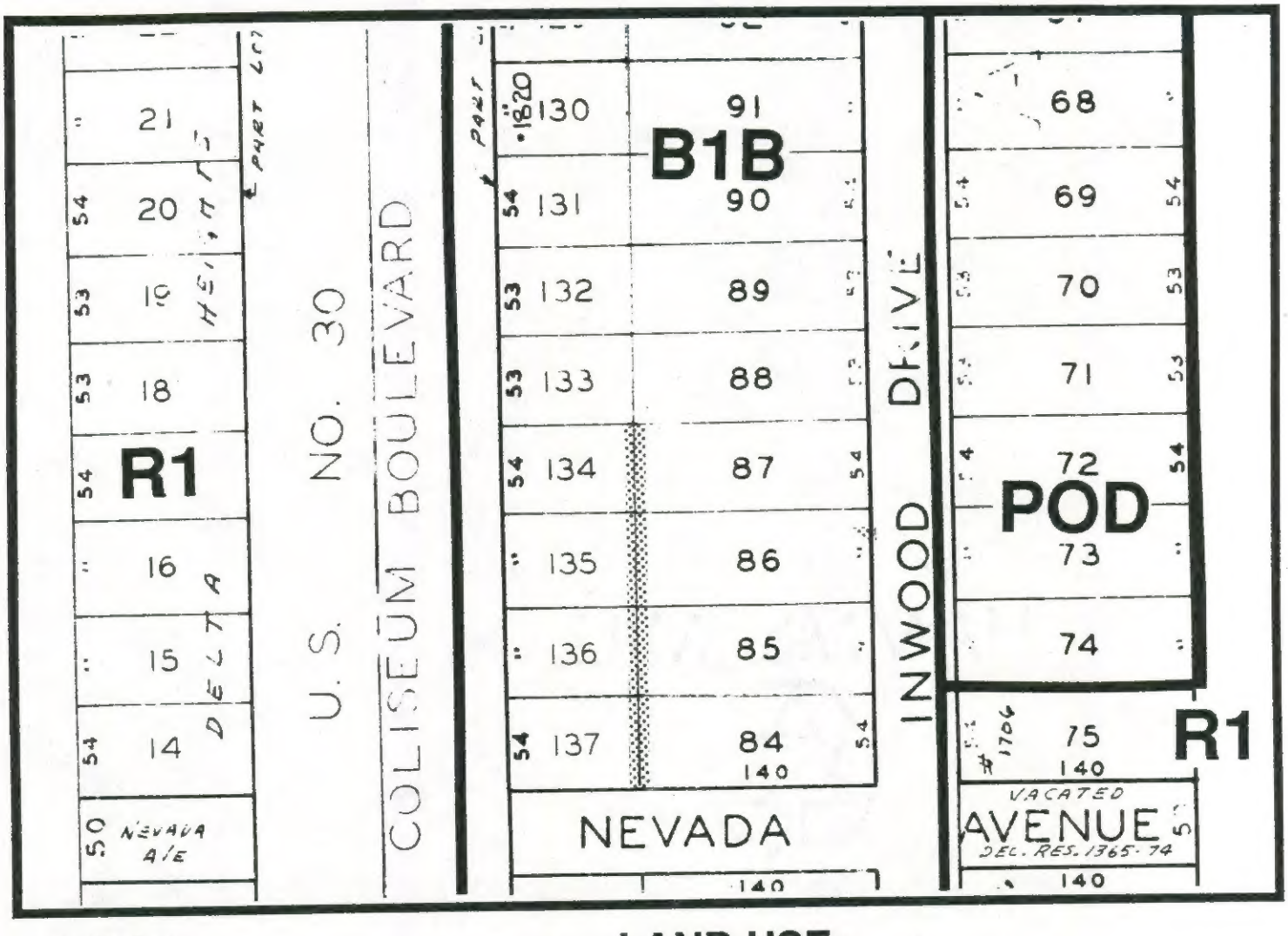
Reference or Case Number

VACATION PETITION #448

A PETITION TO VACATE THE DESCRIBED PORTION OF UTILITY EASEMENT.

MAP NO. **S-14**

COUNCILMANIC DISTRICT NO. **2**



ZONING:

R1 RESIDENTIAL DISTRICT

B1B LIMITED BUSINESS "B"

PROFESSIONAL OFFICE DISTRICT

LAND USE:

☐ *SINGLE FAMILY*

☐ *COMMERCIAL*

SCALE: 1"=100'

DATE: 8-29-90

N

William Swift, attorney for Thomas P. Jehl, requests the vacation of a portion of a utility easement.

Location:	North of Nevada between Coliseum Blvd. and Inwood Drive.		
Legal:	The rear 5 feet of lots 84 - 87 and 134 - 137 inclusive in Delta Heights Addition.		
Land Area:	Approximately 2150 Sq. Ft. (0.049 acres)		
Zoning:	This area is zoned B-1-B		
Surroundings:	North	B-1-B	Commercial
	South	B-1-B	Commercial & open
	East	B-1-B	Open & residential
	West	B-1-B	Open & residential

Reason for Request: Not stated on petition.

Neighborhood Assoc.: None

Neighborhood Plan: No comment.

Comprehensive Plan: No comment.

Landscape: No comment received.

Planning Staff Discussion:

The petitioner states that he owns all of the real estate on which the petitioned easement is located. Further it is stated that the easements were established with the platting of the Delta Heights Addition, and that due to the appropriation of additional right-of-way for Coliseum Blvd. large portions of lots 134 through 137 were acquired. That acquisition left the easements located in a manner that any construction on those lots would be very difficult if not impossible.

This easement lies on undeveloped land north of Nevada Avenue between Coliseum Blvd. and Inwood Drive. The easement apparently continues north onto the Elegant Farmer parcel, where it changes course to the east to avoid that building. The Elegant Farmer is situated behind the easement (if it were continued in a straight line), but is physically very close to the right-of-way on Inwood Drive.

If the easement is not vacated, the property would still have some development potential, but the actual site layout would be severely limited by both the easement and Zoning Ordinance setback requirements. Approval would allow for the potential

development of the site in a more appropriate manner.

The petitioner is aware of the presence of an overhead power line, which Indiana Michigan is apparently willing to relocate.

Recommendation: Conditional Approval, contingent upon the petitioners providing utility easements or relocations as needed, and for the following reasons:

1) Approval will not negatively impact the property values in the area.

2) Approval will allow the parcels in question to be developed without imposition of an undue hardship.

RESOLUTION 78-296-5

WHEREAS, THOMAS P. JEHL has petitioned and requested the Fort Wayne City Plan Commission to hold a public hearing upon the vacation of the following utility easement situated in Fort Wayne, Allen County, to-wit:

> The rear five (5) feet of Lots Numbered 84 through 87, both inclusive, and Lots Numbered 134 through 137, both inclusive, in Delta Heights Addition.

all in accordance with the terms of Section 44, Chapter 174 of the Acts of 1947, of the General Assembly of the State of Indiana, as amended by Section 3 of Chapter 385 of the Acts of the General Assembly of the State of Indiana, Indiana Code Section 36-7-4-12; and,

WHEREAS, notice of such public hearing has been given by due and proper publication thereof;

WHEREAS, vacation of said utility easement has been routed through the following departments: Street Engineering, Traffic Engineering, Water Pollution Control Engineering, Electrical Engineering, Park Board and through the Pubilc Utility Companies.

NOW THEREFORE, BE IT RESOLVED by the Fort Wayne Board of Public Works that the vacation of said utility easement hereinbefore described conforms to the general policy and pattern of development set out in the Master Plan of the City of Fort Wayne, Indiana.

BE IT FURTHER RESOLVED by the Board of Public Works that the vacation of said utility easement hereinbefore described be and the same is hereby approved subject to easements as required by all public utilities occupying and using a portion of or part thereof of said utility easement for the vacation and operation of its utility facilities shall not be deprived of said use on account of these proceedings unless any said utilities shall file a written consent to said vacation.

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

I, MICHAEL J. MCALEXANDER ACTING, Director of the Board of Public Works, do hereby certify that attached hereto is a full, true and correct copy of a resolution adopted by the Fort Wayne Board of Public Works at their meeting held OCTOBER 10, 1990 and as same appears of record in the official records of the Board of Public Works.

DATED THIS 10th DAY OF October 1990

FORT WAYNE BOARD OF PUBLIC WORKS

Charles E. Layton
Director of Public Works

Michael McAlexander
Director of Public Safety

Douglas M. Lehman
Director of Administration & Finance

RESOLUTION

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> The rear five (5) feet of Lots Numbered 84 through 87, both inclusive, and Lots Numbered 134 through 137, both inclusive, in Delta Heights Addition.

all in accordance with the terms of Section 44, Chapter 174 of the Acts of 1947, of the General Assembly of the State of Indiana, as amended by Section 3 of Chapter 385 of the Acts of the General Assembly of the State of Indiana, Indiana Code Section 36-7-4-12; and,

WHEREAS, notice of such public hearing has been given by due and proper publication thereof;

WHEREAS, said public hearing was held on September 17, 1990 at 7:00 P.M. and at such hearing there were no objections of any kind or character which should prevent the vacation of said utility easement.

WHEREAS, vacation of said utility easement has been routed through the following departments: Street Engineering, Traffic Engineering, Water Engineering, Water Pollution Control Engineering, Street Light Engineering, Park Board and through the Public Utility Companies.

NOW THEREFORE, BE IT RESOLVED by the Fort Wayne City Plan Commission that the vacation of said utility easement hereinbefore described conforms to the general policy pattern of development set out in the Master Plan of the City of Fort Wayne, Indiana;

BE IT FURTHER RESOLVED by the Fort Wayne City Plan Commission that the vacation of said utility easement hereinbefore described be and the same is hereby approved.

BE IT FURTHER RESOLVED no public utility occupying and using said utility esement or part thereof for the vacation and operation of its utility facilities shall be deprived of said use on account of these proceedings unless any said utility shall file a written consent to said vacation.

BE IT FURTHER RESOLVED that the action of the Fort Wayne City Plan Commission be forwarded to the proper governing body having jurisdiction of the vacation of said utility easement in Allen County, Indiana.

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

I, Robert Hutner, Secretary of the Fort Wayne City Plan Commission, do hereby certify that attached is a full true and correct copy of a resolution adopted by the Fort Wayne City Plan Commission following a public hearing of said Commission held September 24, 1990, and as the same appears of record in the official records of said Plan Commission.

DATED THIS 3rd DAY OF October 1990

FORT WAYNE CITY PLAN COMMISSION

Robert Hutner
Secretary

THE COUNCIL THEN ADJOURNED

CERTIFICATE

I hereby certify that I am the duly elected, acting and incumbent City Clerk of Fort Wayne, Indiana, and as such the custodian of the records of the Common Council of said City and that the above and foregoing is the true, full and complete record of the proceedings the Common Council of the City of Fort Wayne, Indiana, for its Regular Session, held on 23rd day of October, 19 90, that the numbered ordinances and resolutions shown therein were duly adopted by said Common Council on said date and were presented by me to the Mayor of the City of Fort Wayne and were signed and approved or disapproved by said Mayor and on the dates shown as to each such ordinance and resolution respectively; and that all such records, proceedings, ordinances and resolutions remain on file and record in my office.

WITNESS my hand and the official seal of the City of Fort Wayne, Indiana, this _____ day of _____, 19_____.

Sandra E. Kennedy

City Clerk